

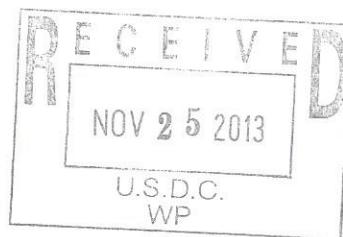
Criminal Notice of Appeal - Form A

*AMENDED*

## NOTICE OF APPEAL

United States District Court

Southern District of New York



Caption:

United States of America

Alberto Vilar and Gary Tanaka

*This app 1/10*

Docket No.: 05cr621

Sullivan, J.

(District Court Judge)

*(BRAKING)*

Notice is hereby given that Alberto Vilar and Gary Tanaka appeals to the United States Court of Appeals for the Second Circuit from the judgment \_\_\_\_\_ other  Collateral Order denying CJA funding to defend against taking of assets entered in this action on October 25, 2013. (specify) (date)

This appeal concerns: Conviction only  Sentence only  Conviction & Sentence  Other

Defendant found guilty by plea  trial  N/A

Offense occurred after November 1, 1987? Yes  No  N/A

Date of sentence: 2/5/10 (vacated 10-521) N/A

Bail/Jail Disposition: Committed  Not committed  N/A

Appellant is represented by counsel? Yes  No  If yes, provide the following information:

Defendant's Counsel: Vivian Shevitz

Counsel's Address: 46 Truesdale Lake Drive  
South Salem, NY 10590

Counsel's Phone: 914 763 2122

Assistant U.S. Attorney: Benjamin Naftalis/ Justin Anderson

AUSA's Address: 1 St. Andrews Plaza NY NY 10007

AUSA's Phone:

*I, GARY ALAN TANAKA, WANT VIVIAN SHEVITZ TO BE MY  
COUNSEL ON THIS APPEAL. DURAN Shevitz  
G.A. Tanaka DATED 23 NOVEMBER 2013*

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

X

US v. Alberto Vilar and Gary Tanaka

SDNY No. 05 cr 621 (RJS)

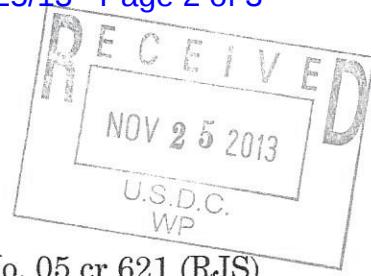
Petitioners

REQUEST FORMA PAUPERIS  
-FOR TANAKA  
(RELATED: APPEAL 10-521(L)  
AND APPEAL 13-4400  
FILED FOR MR. VILAR)

X

Vivian Shevitz, an attorney duly admitted to practice in the Courts of New York State and in this Court, under penalty of perjury hereby declares:

1. I am CJA counsel for Petitioner Alberto Vilar in the district court (105 cr 621(RJS) and in Appeal 10-521 (L). I am also *pro bono* counsel for Gary Tanaka on this appeal.
2. I make this application to be allowed to file a Notice of Appeal without filing fee for Gary Tanaka. The Court would not file Mr. Tanaka's Notice of Appeal because I indicated he has CJA counsel, and I am not his CJA counsel.
3. Mr. Tanaka's CJA counsel would not file this notice of appeal for reasons explained in a just-filed motion for bail and recusal.
4. He asked me to file it for him. And he has written on the Amended Notice of Appeal that he wants me (Vivian Shevitz) to represent him on his appeal from the denial of CJA fees.
5. Mr. Tanaka is entitled to proceed with fee because he cannot pay the filing fee.



6. Mr. Tanaka had counsel appointed in the District Court for further (resentencing/ forfeiture) proceedings and thus has demonstrated his need for *forma pauperis* relief.
7. The Court of Appeals also allowed Mr. Tanaka to file a prior appeal without fee. (Mandamus, 13-2527, and 13-2550).
8. I therefore ask that Mr. Tanaka be allowed to file this amended notice of appeal (relating back to the date it was filed for Mr. Vilar (and rejected for Mr. Tanaka) without fee.

Dated: South Salem, NY  
November 25, 2013

  
\_\_\_\_\_  
/s/  
Vivian Shevitz  
Attorney for Defendants-Appellants  
VILAR and TANAKA  
46 Truesdale Lake Drive  
South Salem, New York 10590  
914 763 2122  
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